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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/526,253

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Lasse Wesseltoft Mogensen

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EXAMINER

DONDERO, WILLIAM E

ART UNIT

PAPER NUMBER

3654

MAIL DATE

DELIVERY MODE

06/05/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/526,253	<b>Applicant(s)</b> MOGENSEN ET AL.	
	<b>Examiner</b> WILLIAM E. DONDERO	<b>Art Unit</b> 3654	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 April 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12, 14 and 16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12, 14 and 16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 September 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 7, 2009 has been entered.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 9-12, 14, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shober, Jr. et al. (US-5265822) in view of Pitcher (US-20030122023). Regarding Claims 1 and 14, Shober, Jr. et al. disclose an apparatus for adjustment of the length of an infusion tube 30 comprising a first wall 14; a second wall 16, at least one elongate slot 18,20,22,24,26,28 arranged in at least one of the walls such that an infusion tube 30 can pass through the wall, the slot sized to have a length which is greater than or equal to a diameter of the infusion tube, the at least one slot extending from a periphery of the wall radially towards a center of the wall; at least one connecting element 44 connecting the first wall to the second wall, the connecting

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element being secured at a distance to a peripheral circumference of the walls; and an inlet opening (space between 14 and 16) extending around the connecting element, the opening provided by a distance between the walls in a radial distance to the connecting element, the opening having a width measured between the walls, the width sized to allow passage of the infusion tube through the inlet opening to allow uninterrupted fluid flow through the infusion tube (Figures 1-8). Shober, Jr. et al. does not expressly disclose inner faces of the first and second walls converge from the connecting element towards the inlet opening; the width sized to allow passage of a single infusion tube; and the inlet opening is funnel shaped, such that the walls diverge away from the inlet opening toward the connecting element. However, Pitcher teaches a reel for the adjustment of the length of an elongate strand material comprising an inlet opening M extending around a connecting element 132, the opening being provided by a distance between walls 20,22 in a radial distance to the connecting element, inner faces of a first 20 and second 22 wall converge from the connecting element towards the inlet opening, the opening having a width D measured between the walls, the width sized to allow passage of a single strand through the inlet opening; and the inlet opening is funnel shaped, such that the walls diverge away from the inlet opening toward the connecting element (Figures 1-9; Paragraph [0048]). It would have been obvious to one of ordinary skill in the art at the time of the invention to design the walls of Shober, Jr. et al. to converge like the walls of Pitcher to prevent unintentional wrapping or unwrapping of the tube as taught by Pitcher (Paragraph [0048]) while allowing for operation of the tube without damaging it by making the opening smaller than the diameter of the tube.

Regarding Claim 2, Shober, Jr. et al. disclose the first and second walls are identically configured bodies arranged parallel and opposite to each other (Figures 1-8).

Regarding Claim 3, Shober, Jr. et al. disclose the connecting element comprises a cylindrical unit, the longitudinal axis of which is located perpendicular to the inner faces of the first and second walls (Figures 1-8).

Regarding Claim 16, Shober, Jr. et al. disclose the length of the slot is at least twice the diameter of the infusion tube (Figures 1-8).

Regarding Claim 9, Shober, Jr. et al. disclose a method of adjusting the length of and infusion tube using an apparatus according to Claim 1 as advanced above, the method comprising inserting the tube through an inlet opening (between 14 and 16), such that a first portion (30 on left in Figure 2) and a second portion (30 on right in Figure 2) of the tube are positioned outside the apparatus and a third portion (wrapped around 44 in Figure 2) is positioned between the walls; winding at least a portion of the second portion of the tube around a connecting element; and securing first and second end portions of the tube in at least one slot 18,28 or the inlet opening (Figures 1-8).

Regarding Claim 10, Shober, Jr. et al. disclose securing the first portion of the tube in at least one slot 18, the at least one slot extending from the peripheral circumference of the one wall and towards the center of the wall (Figures 1-8).

Regarding Claim 11, Shober, Jr. et al. does not expressly disclose securing a free tube portion at the delimitation of the inlet opening provided in the walls. However, Pitcher teaches, securing a tube portion of the inlet opening (between 24 and 26) at the walls (Figures 1-9; Paragraph [0048]). It would have been obvious to one of ordinary

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skill in the art at the time of the invention to secure a tube portion, including a free tube portion, of Shober, Jr. et al. at the delimitation of the inlet opening as taught by Pitcher to store the free tube portion until it is needed.

Regarding Claim 12, Shober, Jr. et al. disclose securing the second tube portion in at least one slot 28, the at least one slot extending from the one peripheral circumference of the one wall and towards the internal area of the wall (Figures 1-8).

Claims 4-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shober, Jr. et al. (US-5265822) in view of Pitcher (US-20030122023) as applied to claims 1-3, 9-12, 14, and 16 above, and further in view of Burger et al. (US-4802638). Regarding Claims 4-5, Shober, Jr. et al. in view of Pitcher does not expressly disclose the entire apparatus, including the walls are, at least in the area delimiting the inlet opening, manufactured from elastic material. However, Burger et al. teach a reel for elongate strand material wherein the entire apparatus, including the walls are, at least in the area delimiting the inlet opening, manufactured from elastic material (Figures 5-6; Column 3, Lines 20-63). It would have been obvious to one of ordinary skill in the art at the time of the invention to manufacture to the apparatus of Shober, Jr. et al. in view of Pitcher from elastic material as taught by Burger et al. to allow the walls to be moved from an open to a closed position easily to access the tubing as taught by Burger et al.

Regarding Claims 6-8, Shober, Jr. et al. in view of Pitcher does not expressly disclose an attachment device, comprising a clip device, integrated with the first or second wall, for mounting the apparatus on a carrier face; wherein the at least one slot is formed in the wall on which the attachment device for mounting the apparatus on a

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carrier face is arranged. However, Burger et al. teach a reel for elongate strand material comprising an attachment device 200,210,220,230,242, comprising a clip device 230, integrated with a first or second wall 120, for mounting the apparatus on a carrier face; wherein at least one slot 160 is formed in the wall on which the attachment device for mounting the apparatus on a carrier face is arranged (Figures 6 and 12). It would have been obvious to one of ordinary skill in the art at the time of the invention to add the clip device of Burger et al. to the apparatus Shober, Jr. et al. in view of Pitcher to allow the device to be attached to an object or a person as taught by Burger et al.

### ***Response to Arguments***

With respect to Applicant's arguments starting on page 8, line 6 to page 9, line 5, Applicant argues Burger et al. fails to teach an inlet opening having a width measured between the walls that is sized to allow passage of a single infusion tube through the inlet opening and that allows uninterrupted fluid flow through the tubing. Applicant's arguments with respect to claims 1-8 and 14 have been considered but are moot in view of the new ground(s) of rejection.

With respect to Applicant's arguments starting on page 9, line 12 to page 10, line 19, Applicant argues Burger et al. in view of Shober, Jr. et al. alone or in combination fail to teach or suggest a method of adjusting the length of an infusion tube where the infusion tube is inserted into an inlet opening having a width sized to allow passage of a single infusion tube and that allow for uninterrupted fluid flow through the infusion tube as making the walls of Shober, Jr. et al. converge as taught by Burger et al. would render Shober, Jr. et al. unsatisfactory for its intended purpose. Applicant's

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arguments with respect to claims 9-12 have been considered but are moot in view of the new ground(s) of rejection. It is further noted that as the new Pitcher reference teaches the opening being at least one diameter of the material wound on the reel but not more than two diameters, Shober, Jr. et al. in view of Pitcher would not cause the device of Shober to be unsatisfactorily modified as the coupler would still be accessible to the user.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to WILLIAM E. DONDERO whose telephone number is (571)272-5590. The examiner can normally be reached on Monday through Friday 7:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Q. Nguyen can be reached on 571-272-6952. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John Q. Nguyen/  
Supervisory Patent Examiner, Art Unit 3654

/W. E. D./  
Examiner, Art Unit 3654